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Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: March 1, 2006

Approved

Date 3/2/06

COUNCIL DISTRICT: Citywide

INFORMATION

SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF OCTOBER 1, 2005 THROUGH DECEMBER 31, 2005

EXECUTIVE SUMMARY

This report details actions taken under the City Council's delegation of authority to the Directors of Housing and Finance for the second quarter of Fiscal Year 2005-06. Included in the actions taken were: approval of more than \$87,000 in grants to service providers to benefit Hurricane Katrina evacuees; approval of more than \$1 million in housing rehabilitation loans and grants; modification to loan terms for eight existing project development loans; a write-off of one small mobilehome rehabilitation loan; finalization of construction loan terms for three multifamily projects totaling \$15.4 million in City funding; and, the holding of two TEFRA hearings to enable a \$25 million tax-exempt bond issuance for an affordable multifamily project.

BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of October 1, 2005 through December 31, 2005.

ANALYSIS

The Delegation of Authority Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

ACTIONS TAKEN BY THE DIRECTOR OF HOUSING

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of October 1, 2005 through December 31, 2005:

Housing Trust Fund Grants:

EHC LifeBuilders – Katrina Evacuees

On December 5, 2005, the Director of Housing approved the expenditure of \$87,228 in Housing Trust Fund dollars through execution of a contract with EHC LifeBuilders to provide services to Hurricane Katrina evacuees. The contract, executed on December 15, 2005, authorized this expenditure to assist approximately 100 evacuee families within City limits. Services provided included case management for housing placement, for employment services and for move-in support, as well as payment of security deposits and the cost of moving vans.

Housing Rehabilitation and Improvement Loans and Grants Approved:

<u>ACTIVITY</u>	<u>NUMBER</u>	<u>AMOUNT</u>
REHABILITATION LOANS	8	\$ 125,000
REHABILITATION GRANTS	76	\$ 900,305
PAINT GRANTS	0	\$ 0
TOTAL:	84	\$1,025,305

Modifications to Council-approved Loan Terms & Conditions:

De Rose Housing Associates, L.P.

Pursuant to a loan agreement dated November 4, 1988, the City made a loan of \$1,400,000 to DeRose Housing Associates, L.P., the tax credit partnership owning the DeRose Senior Housing Project. DeRose HDC, Inc., a legal affiliate controlled by the Housing Authority of the County of Santa Clara ("Housing Authority"), acted as managing general partner of the partnership.

An agreement executed at that time between the City, DeRose HDC, and the Housing Authority provided that, should either DeRose HDC or the Housing Authority become the sole owner of the property prior to 2018, the City would agree to forgive any principal and interest owed on the City loan in excess of \$1,400,000. In consideration for forgiveness of amounts owed over \$1,400,000, the new owner would extend the 30-year affordability restrictions to 55 years.

On October 29, 2005, the Director of Housing granted the Housing Authority's request to purchase the project improvements and leasehold interest from DeRose Housing Associates, L.P., in accordance with a 1989 Option Agreement. Further, the Director approved the transfer of indebtedness and ownership of this project from the Housing Authority to San Pedro Gardens Housing, Inc. ("SPG"), a nonprofit affiliate of the Housing Authority, which will act as the partnership's new managing general partner.

As predetermined in the original agreement with the City, the Director forgave any repayment obligation to the City beyond \$1,400,000 in exchange for a 25-year extension of the affordability restrictions. The Director also approved changes in the City's related legal documents to substitute SPG for DeRose HDC, Inc.

All other terms and conditions remained unchanged.

Tierra Encantada, L.P., - District: 5 - SNI: Mayfair

On October 26, 2005, the Director of Housing approved the following amendments to the terms of the existing Construction and Permanent loan to Tierra Encantada, L.P. for the Tierra Encantada Apartments development:

- Subordination of the City Loan to an increased permanent loan. The City initially agreed to subordinate to a maximum permanent loan amount of \$5,698,364. Citibank's final permanent senior loan underwriting supported a loan amount of \$7,200,000 with the additional funds used to pay off a tax credit investor bridge loan that covered higher costs incurred due to an extended construction timeframe. Given that the City received payment of its construction interest and a planned partial paydown, the City consented to subordinate to the larger loan amount.
- Extension of the maturity date of the \$400,000 acquisition loan for the for-sale parcel by six months to June 1, 2006 to accommodate the extended construction timeframe from the rented units, and to give adequate time for the developer to close construction financing for the for-sale parcel.

All other terms and conditions remained unchanged.

Four (4) Predevelopment Loans Converted to Grants

Nonprofit affordable housing developments are eligible for predevelopment loans from the Department's CDBG Predevelopment Loan Fund. The loan proceeds are utilized for predevelopment and due diligence expenses for potential affordable housing projects, and are secured by an assignment of the purchase option and repaid through an acquisition/predevelopment/construction/permanent loan from either HOME or 20% proceeds. There are currently four outstanding predevelopment loans for projects that did not proceed for various reasons.

On November 4, 2005, the Director of Housing approved the conversion of four CDBG Predevelopment Loans (in aggregate principal amount of \$116,078.43) to Grants. The approved loans are as follows:

- First Community Housing, Atrium Gardens - \$38,535. This predevelopment loan was originated in April 1998 and was used to fund basic due diligence costs needed to determine project feasibility. The project was deemed infeasible and, therefore, the balance is not collectible from project construction loan proceeds as was anticipated.
- Eden Housing, Foxdale Manor - \$7,000. This predevelopment loan was also originated in April 1998 and was used to fund an appraisal and minor due diligence activity to determine project feasibility. After the appraisal was prepared, Eden Housing determined it could not move forward.
- Emergency Housing Consortium, Northside Senior - \$21,850. EHC responded to a 1998 RFQ and, after receiving the predevelopment funds, EHC spent approximately \$21,850 before it was determined that EHC could not develop the project. Subsequently, BRIDGE Housing was selected as the developer for the project.

- Emergency Housing Consortium, No Project - \$48,693.43. This predevelopment loan was used to fund basic EHC's due diligence costs to determine feasibility of locating the regional reception center on Timothy Drive, which was later deemed infeasible. The reception center was later opened at the current Little Orchard Street location.

Paula Street Apartments – District: 6 - SNI: N/A

First Community Housing (then known as First San José Housing) developed the Paula Street Apartments in 1989. The property consists of 21 two-bedroom units, of which 10 units are for Very Low-Income residents and 11 are targeted to Low-Income residents. The promissory note for the City's loan of \$1,497,387 was amended on May 17, 2000 to include, among other provisions: (i) an annual net cash flow distribution of 60% to the City and 40% to the borrower; and, (ii) a cap of \$20,000 on the 40% of net cash flow being distributed to the borrower.

On December 5, 2005, the Director of Housing approved a further amendment of the promissory note for the Paula Street Apartments to include, effective December 31, 2004: (a) a 3% annual inflation adjustment for the administrative services fee; and, (b) the removal of a cap on the sponsor's share of residual receipts, in order to give an incentive to the borrower to increase the net cash flow.

Mobilehome Rehabilitation Loan:

On December 19, 1994, the Housing Department made a loan to David and Consuelo Ortiz in the amount of \$8,500 for repairs to their mobilehome located at 1840 South 7th Street, Space #22. The mobilehome is 44 years old and has little to no value, therefore providing no actual security to the City's loan. The home's age would prevent its relocation to another park and, with the borrower's limited income and failing health, it is clear that the loan will never be repaid.

Therefore, on October 20, 2005, the Director of Housing approved a write-off of the mobilehome loan in the amount of \$8,500 plus interest through September 30, 2005 for a total of \$3,178.67, and a release of the City's lien on the mobilehome.

Loans/Grants Terms and Conditions:

Gish Apartments Project – District: 3 - SNI: N/A

On October 26, 2005, the Director of Housing approved the following: (i) specific business terms of the construction and permanent loan to Gish Apartments, L.P. as evidenced by the Term Sheets dated October 21, 2005; and (ii) an increase of the City loan amount at permanent conversion by \$200,000 from \$2,275,000 to \$2,475,000 to capitalize the City's interest on the loan accrued during the construction period.

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All other terms and conditions remained unchanged as approved by the City Council on February 8, 2005.

Gish Apartments	Construction Loan	Permanent Loan
Loan Amount:	\$2,275,000	\$2,475,000
Interest Rate:	4.00% Simple	4.00% Simple
Loan Term:	36 Months	660 Months
Repayment:	P&I at Maturity	Residual Receipts 39.48% to City
Total Affordable Units:	13 @ 20% AMI, 6 @ 40% AMI, 8 @ 45% AMI, 7 @ 50% AMI, and 1 @ 60% AMI	13 @ 20% AMI, 6 @ 40% AMI, 8 @ 45% AMI, 7 @ 50% AMI, and 1 @ 60% AMI
Affordability Term:	55 Years	55 Years

Paseo Senter, L.P. – District: 7 – SNI: Tully Senter

In November 2005, the Director of Housing approved the specific business terms of the construction and permanent loans to Paseo Senter, L.P. and Paseo Senter Phase II, L.P. as evidenced by the Term Sheets dated December 13, 2005 in accordance with the City Council approval of June 29, 2004 for the loans of up to \$6,943,800 for Paseo I and up to \$5,939,550 for Paseo II.

All other terms and conditions remained unchanged as approved by City Council on June 29, 2004.

Paseo Senter, L.P.	Construction Loan	Permanent Loan
Loan Amount:	\$6,943,800	\$6,943,800
Interest Rate:	3.00% Simple	3.00% Simple
Loan Term:	36 Months	660 Months
Repayment:	P&I at Maturity	Residual Receipts, 35% of Net Cash Flow to City, after the payment of the GP Partnership Management Fee
Total Affordable Units:	12 @ 15% AMI, 23 @ 25% AMI, 80 @ 45% AMI, and 2 Unrestricted Managers' Units	12 @ 15% AMI, 23 @ 25% AMI, 80 @ 45% AMI, and 2 Unrestricted Managers' Units
Affordability Term:	55 Years	55 Years

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Paseo Senter II, L.P.

Construction Loan

Permanent Loan

Loan Amount:	\$5,939,550	\$5,939,550
Interest Rate:	3.00% Simple	3.00% Simple
Loan Term:	36 Months	660 Months
Repayment:	P&I at Maturity	Residual Receipts, 35% of Net Cash Flow to City, after the payment of the GP Partnership Management Fee
Total Affordable Units:	10 @ 15% AMI, 21 @ 25% AMI, 68 @ 45% AMI, and 2 Unrestricted Managers' Units	10 @ 15% AMI, 21 @ 25% AMI, 68 @ 45% AMI, and 2 Unrestricted Managers' Units
Affordability Term:	55 Years	55 Years

Branham Lane Apartments, L.P. – District: 2 – SNI: N/A

The PD Permit for this project required JSM Enterprises to adequately complete the landscaping on the City-owned land adjacent to the Oak Tree Village Apartments. On October 31, 2005, the Director of Housing approved an increase in the City's Construction/Permanent Loan of \$47,700, increasing the total loan commitment from \$10,540,000 to \$10,587,700, to Branham Lane Apartments Associates, L.P., an affiliate of JSM Enterprises, for the purpose of providing funds for additional landscaping. The Director also approved the specific business terms of the increase to the City Loan amount for the Oak Tree Village Apartments, as evidenced by the Term Sheets dated October 25, 2005 and in accordance with the City Council-approved commitment of funds dated January 14, 2003.

The increase to the City's construction/permanent loan in the amount of \$47,700 will be documented separately, and will carry a 0.00% interest rate.

All other terms and conditions remained unchanged as approved by City Council on January 14, 2003.

Oak Tree Village Apartments

**Construction/
Permanent Loan**

**Approved Increase to
Construction/Permanent
Loan**

Loan Amount:	\$10,540,000	\$47,700
Interest Rate:	4.00% Simple	0.00%
Loan Term:	396 Months	192 Months
Repayment:	P&I at Maturity	P&I at Maturity
Total Affordable Units:	53 @ 50% AMI, 121 @ 60% AMI and 1 Unrestricted Manager's Units	53 @ 50% AMI, 121 @ 60% AMI and 1 Unrestricted Manager's Units
Affordability Term:	55 Years	55 Years

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PREDEVELOPMENT LOANS:

None this period.

TEFRA HEARINGS CONDUCTED BY THE DIRECTOR OF FINANCE:


During this reporting period, the Deputy Director of Finance held two TEFRA hearings on behalf of California Statewide Communities Development Authority ("CSCDA") for the Casa Real Apartments. The first hearing was held on November 21, 2005 for an amount not to exceed \$19 million, and the second was held on December 8, 2005 for an amount not to exceed \$25 million. The second hearing was necessary because the developer's project budget increased. As a member of CSCDA, the City was required to approve the bond issuance since the project is located within the City's jurisdiction.

Project Name	Units	Location	Bond Amount	Mayor's Certificate No.
Casa Real Apartments	180	2570 Fontaine Road, San José	\$19,000,000	No. 2005-5 Adopted
Casa Real Apartments	180	2570 Fontaine Road, San José	\$25,000,000	No. 2005-6 Adopted

COORDINATION:

Preparation of this report has been coordinated with the City Attorney's Office.


SCOTT F. JOHNSON
Director of Finance


LESLYE KRUTKO
Director of Housing